

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

ROBERT WYMAN HAWKINS, JR.
TX-1335830-R

§
§
§
§
§
§
§
§

DOCKETED COMPLAINT NO.
13-197 & 13-277

AGREED FINAL ORDER

On the 21 day of Feb, 201~~3~~⁴, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Robert Wyman Hawkins, Jr. (the "Respondent").

In order to resolve the dispute between the Board and the Respondent the parties collectively agreed to enter into this Agreed Final Order (the "Agreed Final Order"). The parties acknowledge that by agreeing to the terms of this Order, Robert Wyman Hawkins, Jr. does not admit that the Findings of Fact and Conclusions of Law are true and the parties acknowledge that Respondent agrees to enter into this Order solely to resolve the dispute between the parties and to avoid the expense of an administrative hearing to adjudicate the claims presented by the Statement of Charges ("Statement").

The Board acknowledges that it filed a Statement which alleged that the Board is entitled to the entry of the following findings of fact and conclusions of law, which Respondent does not admit but rather disputes and expressly denies. Moreover, the Board's Findings of Fact and Conclusions of Law are not the findings or conclusions of an Administrative Judge, but rather are solely the Board's findings and conclusions as evidenced by the allegations contained in the Statement. Respondent has appropriately notified the Board that he disputes the Board's findings and conclusions, however, to resolve and settle the dispute and to avoid the cost and expense of an administrative hearing the Board and Respondent agree to enter into this Order, which recites the Board's findings and conclusions in accordance with TEX. OCC. CODE § 1103.458.:

FINDINGS OF FACT

1. Respondent Robert Wyman Hawkins, Jr. is a Texas state certified residential real estate appraiser who holds certification number TX-1335830-R, and was certified by the Board during all times material to the above-noted complaints.
2. Respondent appraised real property (collectively, the "Properties") located at:
 - a. 1331 Twin Knoll Drive, Murphy, Texas 76058 (the "Twin Knoll property"), on or about April 9, 2013; and
 - b. 3300 Lanarc Drive, Plano, Texas 75023 (the "Lanarc property"), on or about March 7, 2013;

3. Thereafter, the complaint, numbered 13-197, was filed with the Board by Valerie Fischer (borrower). Thereafter, the complaint, numbered 13-277, was filed with the Board by Dustin Chase/LenderVend, LLC. The Board investigated the complaint to ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CHPT. 1103 (the "Act") and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the "Rules").

4. The Board, in accordance with the mandate of TEX.GOV'T CODE CHPT. 2001, the Administrative Procedure Act (the "APA"), and the Act, notified Respondent of the nature of the accusations involved. Respondent was afforded an opportunity to respond to the accusations in the complaint and was also requested to provide certain documentation to the Board. Respondent voluntarily provided documentation to the Board and categorically denied that he in any way violated the Act or USPAP.

5. As a result of the Board's investigation, the Board contends that Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal reports for the Properties:

- a) USPAP Ethics Rule -- Respondent violated the Ethics Rule by communicating assignment results in a grossly negligent manner;
- b) USPAP Record Keeping Rule -- Respondent failed to maintain a work file containing all data, information and documentation necessary to support his opinions, analyses and conclusions as required by the record keeping provisions;
- c) USPAP Scope of Work Rule -- Respondent failed to properly identify the problem to be solved, determine and perform the Scope of Work necessary to develop credible assignment results;
- d) USPAP Standards 1-2(e)(i) & 2-2(b)(iii); 1-1(b) -- Respondent failed to identify and report significant and material information concerning the site description and improvements description adequately;
- e) USPAP Standards 1-2(e)(iv) & 2-2(b)(viii) -- Respondent misrepresented the zoning for the Lanarc property and failed to disclose, analyze and report the proper zoning classification;
- f) USPAP Standards 1-3(a) & 2-2(b)(viii); 1-1(b) -- Respondent failed to properly identify and analyze market area trends;
- g) USPAP Standards 1-4(b)(i) & 2-2(b)(viii) ; 1-1(a) & 1-4(b) -- Respondent failed to use an appropriate method or technique to develop a site value determination and did not provide supporting documentation, analysis or data for his determination;

- h) USPAP Standards 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a) – Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately and has not employed recognized methods and techniques in his sales comparison approach;
 - i) USPAP Standards 1-6(a) & (b) & 2-2(b)(viii) – Respondent failed to reconcile the quality and quantity of the data within the approaches used; and,
 - j) USPAP Standards 1-1(a), 1-1(b), 1-1(c), 2-1(a) and 2-1(b) – For the reasons detailed above, Respondent was careless, negligent and produced a misleading appraisal report for the Properties that contained several substantial errors of omission or commission by not employing correct methods and techniques. This resulted in an appraisal report that was not credible or reliable.
6. Respondent made material omissions of material fact with respect to the appraisals of the Properties as detailed above.
7. The parties agree to enter into this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.
8. The Findings of Fact recited in paragraph's 1-9 above are not the findings of Administrative Judge but rather solely the findings of the Board as alleged in the Statement which Respondent disputes.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE CHPT. 1103.
2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(6).
3. Respondent violated 22 TEX. ADMIN. CODE § 153.20(12) by making material omissions of material fact.
4. The parties are authorized to resolve their dispute by means of a consent order in accordance with Tex. Occ. Code §1103.458.

The Conclusions of Law recited in paragraphs 2 & 3 above are the legal conclusions sought by the Board and shall not be construed as the legal conclusions of an Administrative Judge. Moreover, Respondent specifically denies and does not admit to the conclusions in paragraphs 2 & 3 by agreeing into this Order.

ORDER

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that Respondent's Texas state certification (TX-1335830-R) is hereby suspended for twenty-

four (24) months, beginning on February 21, 2014, with this suspension being fully probated under the following terms and conditions:

1. **REPRIMAND.** Respondent is hereby reprimanded for the above-noted acts and omissions alleged by the Board.
2. **ADMINISTRATIVE PENALTY.** On or before March 13, 2014. Respondent shall pay to the Board an administrative penalty of one thousand five hundred dollars (\$1,500.00) by certified funds, within twenty (20) days of the effective date of this Agreed Final Order (i.e. on or before March 13, 2014).
3. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and
4. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

ACKNOWLEDGMENT AND WAIVER

RESPONDENT'S FAILURE TO TIMELY COMPLY WITH ANY TERM IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE SHALL RESULT IN THE AUTOMATIC REVOCATION OF PROBATION AND THE SUSPENSION IMPOSED IN THIS AGREED FINAL ORDER SHALL BE EFFECTIVE FOR THE FULL TERM COMMENCING ON THE EFFECTIVE DATE OF THE REVOCATION OF PROBATION. IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERMS IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, THE RESPONDENT SHALL BE IMMEDIATELY ASSESSED A \$1,000 ADMINISTRATIVE PENALTY.

ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE ACT OR THE APA, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS.

RESPONDENT, BY SIGNING THIS AGREED FINAL ORDER, WAIVES THE RESPONDENT'S RIGHT TO A FORMAL HEARING, ANY MOTION FOR REHEARING, AND ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's website.

Respondent is solely responsible for timely delivery to the Board of all documents and payments necessary for compliance of this Agreed Final Order. Payment of any administrative penalties due must be in the form of a cashier's check or money order made payable to the Texas Appraiser Licensing and Certification Board. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming receipt by the board of all the necessary documents.

Respondent shall send all documents and payments necessary for compliance by: (1) email to compliance.talcb@talcb.texas.gov, (2) fax to (512) 936-3966, attn: Compliance, or (3) certified mail return receipt requested to Standards & Enforcement Services, Texas Appraiser Licensing & Certification Board, Stephen F. Austin Building, 1700 N. Congress Ave., Suite 400, Austin, TX 78701.

I HAVE READ AND REVIEWED THIS ENTIRE AGREED FINAL ORDER FULLY AND AM ENTERING INTO IT OF MY OWN FREE WILL TO AVOID THE EXPENSE OF LITIGATION AND TO REACH AN EXPEDITIOUS RESOLUTION OF THE MATTER. I NEITHER ADMIT NOR DENY THAT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW CONTAINED HEREIN ARE CORRECT. I UNDERSTAND ALL OF MY COMPLIANCE OBLIGATIONS UNDER THIS AGREED FINAL ORDER AND THE CONSEQUENCES FOR FAILING TO COMPLY WITH THOSE OBLIGATIONS.

I UNDERSTAND THAT THE BOARD AND ITS STAFF CANNOT PROVIDE ME WITH LEGAL ADVICE AND I AM AWARE OF MY RIGHT TO BE REPRESENTED BY AN ATTORNEY OF MY OWN CHOOSING. I AM AWARE OF MY RIGHT TO A HEARING, AND HEREBY WAIVE A HEARING AND ALSO WAIVE ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER, INCLUDING FOR ANY SUBSEQUENT ACTION RESULTING FROM MY FAILURE TO TIMELY COMPLY WITH AN ADMINISTRATIVE REQUIREMENT OF THIS AGREED FINAL ORDER (E.G. PAYMENT OF A PENALTY, COMPLETION OF REMEDIAL EDUCATION, OR FAILURE TO PROVIDE LOGS).

This agreement may be executed in one or more counterparts, in form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 11 day of December, 2013.


ROBERT WYMAN HAWKINS, JR.


BOONE ALMANZA, ATTORNEY FOR
ROBERT WYMAN HAWKINS, JR.

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 11th day of December, 2013, by ROBERT WYMAN HAWKINS, JR., to certify which, witness my hand and official seal.

[Signature]
Notary Public Signature

M. Munzing
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 13th day of December, 2013.

[Signature]
Kyle Wolfe, Staff Attorney
Texas Appraiser Licensing and Certification Board

Signed by the Commissioner this 21 day of Feb, 2013 ⁴

[Signature]
Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 21 day of Feb, 2013 ⁴

[Signature]
Luis De La Garza, Chairperson
Texas Appraiser Licensing and Certification Board

WALKER BEARD